IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

Bail Appl..No. 5471 of 2007()

CRIME NO.254/2007 OF TOWN SOUTH POLICE STATION ,PALAKKAD

PETITIONER/ACCUSED

RAJAMMA, W/O DORAISWAMI, AGED 50 YEARS,
HOUSE NO.16/444, DORAI MAHAL, KUNNATHURMED,
CHIRAKKAD, PALAKKAD.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, REPRESENTING THE S.I. OF POLICE,
TOWN SOUTH POLICE STATION, PALAKKAD.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No. 5471 of 2007

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Dated this the 11th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations, inter alia, under Section 3(1)(x) of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act . The crux of the allegations is that the petitioner intentionaly insulted the defacto complainant a person who belongs to the schedule cast. Crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioners husband had advanced amounts to the defacto complainant'. He demanded money and subsequent to non-return of money he has initiated a civil suit. As retaliation against that, the present allegations have been raised. The Police have forced the petitioner to withdraw his claim made against the de facto complainant. The petitioner did not oblige. The Police was also colluding with the defacto complainant. In these circumstances, anticipatory bail

may be granted to the petitioner, prays the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The petitioner is dis-entitled to seek anticipatory bail in view of Sec.18 of Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act. When allegations are raised under the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, this Court cannot invoke the powers under Section 438 Cr.P.C.

4. No special and specific directions appear to be necessary. This Court time and again has reiterated that the mere fact that the offence is triable by a Court of Session(Special Court) under Sec.14 of Act will not justify the abdication of powers by the Magistrate under Section 437 Cr.P.C. The position has been reiterated in **Ali v. State of Kerala** [2000(2) KLT 280], **Shanu v. State of Kerala** [200(3) KLT 452], **Krishnakumar v. State of Kerala** [2005(1) KLD (Cri.42)] and **P.P.Kader v. State of Kerala** [2005(1) KLD (Cri.250). I have no reason to assume that the learned Magistrate would not consider the petitioner 's application for bail on merits, in accordance with law and expeditiously. The decision in **Alice George v. The Deputy**

Superintendent of Police [2003(1) KLT 339] further mandates that such application must be considered expeditiously. No special or specific directions appear to be necessary.

5. This application is, in these circumstances, dismissed The learned Magistrate must consider the application for bail to be filed by the petitioner on his surrender before the learned Magistrate on merits, in accordance with law and expeditiously – on the date of surrender itself . The petitioner shall be at liberty to give notice to the prosecutor in advance before he surrenders.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE